DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1, 4, 19, 21, 22, 24, 26-30, 33-39 and 42-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaish (US 5,997,928) in view of Juergen (DE 19832757), Wolfgang (DE 19830844) and Andreas (DE 19802594). An English machine translation of Andreas (DE 19802594) has been provided and is included in the Notice of Reference Cited (PTO-892).

4. Regarding claims 1, 30 and 39, Kaish teaches a cooking device (Fig 1, Item 1, Col 3, Lines 22-35 & Col 6, Lines 31-36, microwave-convection oven), comprising: an input configured to receive information regarding at least one of a geographic location (Fig 10, Item 107, Col 11, Lines 1-5, GPS) of the cooking device and a selectable operating language of the cooking device; a control or regulating unit (Figs 1 & 10,

Items 16 & 106, Col 10, Lines 65-67 & Col 11, Line 1); and a control element (Fig 10, Item 100, Col 10, Lines 55-60) communicatively connected to the input and the control (Fig 10, Item 107) or regulating unit (Fig 10, Item 106), the control element including at least one modification function element (Figs 1 & 10, Items 16 & 106) and at least one confirmation or storage function element (Fig 10, Items 101 & 102, Col 10, Lines 55-60).

5. Kaish discloses the claimed invention except for the control or regulating unit is configured to implement a predetermined cooking program or a predetermined cooking mode of operation using at least one cooking parameter that is adapted to be preset for the predetermined cooking program or predetermined cooking mode of operation, the cooking parameter having a value that reflects at least one of the geographic location of the cooking device and the selectable operating language of the cooking device, the value of the cooking parameter defines an environmental cooking condition inside the cooking device for the predetermined cooking program or predetermined cooking mode of operation; the modification function element being operable to modify the preset cooking parameter; and the confirmation or storage function element being operable by an operator of the cooking device to affirmatively confirm, accept or store the modified cooking parameter during a predetermined time period, the modified cooking parameter is confirmed, accepted or stored by the cooking device through (1) operation of the confirmation or storage function element by the operator during the predetermined time period and (2) if the predetermined time period has elapsed and the operator has not operated the confirmation or storage function element with regard to the modified cooking parameter, the cooking device automatically confirms, accepts, or stores the

modified cooking parameter, the control element is configured to receive information via the input and to automatically preset the cooking parameter as a function of the geographic location of the cooking device and as a function of a selected operating language of the cooking device.

6. In analogous art of domestic electric appliance control, Juergen discloses the control or regulating unit (Fig 1, Items 50 & 60, Pg 8, Pgh 2) operating unit and control device) is configured to implement a predetermined cooking program (Pg 5, Pgh 5, pre-set operating program) or a predetermined cooking mode of operation (Pg 6, Pgh 1, pre-set operating procedure) using at least one cooking parameter (Pg 5, Pgh 5, change the program parameter & Pg 7, Pgh 2) that is adapted to be preset for the predetermined cooking program (Pg 5, Pgh 5, pre-set operating program) or predetermined cooking mode of operation (Pg 6, Pgh 1, pre-set operating procedure), the cooking parameter having a value that reflects at least one of the geographic location of the cooking device and the selectable operating language (Pg 4, Pgh 1, convert the terms into another language) of the cooking device; the modification function element (Fig 1, Items 20 & 23, Pg 9, Pgh 1, input operating elements) being operable to modify the preset cooking parameter; and the confirmation or storage function element being operable by an operator (Pg 4, Pgh 1, user) of the cooking device to affirmatively confirm, accept or store the modified cooking parameter (Pg 5, Pgh 5, Pgh 6, Pgh 1 & 4) during a predetermined time period, the modified cooking parameter is confirmed, accepted or stored by the cooking device through (1) operation of the confirmation or storage function element by the operator during the

predetermined time period (Pg 6, Pgh 3, and the cooking program is started with the heating mode which has been selected with the time interval) and (2) if the predetermined time period has elapsed and the operator has not operated the confirmation or storage function element with regard to the modified cooking parameter, the cooking device automatically confirms, accepts, or stores the modified cooking parameter (Pg 7, Pgh 1, as an alternative to this, an automatic adoption (storage) of a changed program parameter is naturally also possible without acknowledgement, even after a certain time period has expired) for the purpose of providing a program-controlled operating interface that displays the specific function configuration in a simple and cost efficient manner to control an electric domestic appliance (Pg 4, Pghs 1 & 2). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings of Kaish with the regulating unit of Juergen for the purpose of providing a program-controlled operating interface that displays the specific function configuration in a simple and cost efficient manner to control an electric domestic appliance.

7. In analogous art of control arrangement for a program-controlled domestic appliance with country program list, Wolfgang discloses the value of the cooking parameter (Fig 1, Item 1, Pg 1, Pgh 2) defines an environmental cooking condition inside the cooking device for the predetermined cooking program or predetermined cooking mode of operation (Pg 1, Pgh 1); and the control element (Fig 1, Item 1, Pg 2, Pgh 8, control unit) is configured to receive information via the input (Fig 1, Item 5, Pg 2, Pgh 8, input unit) and to automatically preset the cooking parameter as a function of a

selected operating language of the cooking device (Pg 2, Pghs 1 & 2) for the benefit of taking into consideration country-specific cooking and food patterns (Pg 2, Pgh 1). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings Kaish and Juergen with the control arrangement of Wolfgang for the benefit of taking into consideration country-specific cooking and food patterns.

8. In analogous art of automatic control of certain functions, Andreas discloses the control element (Fig 1, Item 2, Pg 5, Lines 28-32) is configured to receive information (Fig 1, Item 5, Pg 5, Lines 28-32) via the input (Item 6, Pg 5, Lines 1-22) and to automatically preset the parameter as a function of the geographic location of the device (Pg 4, Lines 30-40 & Pg 5, Lines 28-36) for the purpose of determining country specific parameters and adjusting the device control functions accordingly (Pg 4, Lines 30-40). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings of Kaish, Juergen and Wolfgang with the automatic control element function of Andreas for the purpose of determining country specific parameters and adjusting the device control functions accordingly.

9. Regarding claims 4, 33 and 42, Juergen discloses comprising predetermined unchangeable limits within which the at least on modification function element is configured to modify the cooking parameter (Pg 5, Pgh 5, device is set in operation with a pre-set operating program, the user can still adapt or change the program parameters by actuating the function operating elements) for the purpose of providing a program-controlled operating interface that displays the specific function configuration in a simple

and cost efficient manner to control an electric domestic appliance (Pg 4, Pghs 1 & 2). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings of Kaish with the regulating unit of Juergen for the purpose of providing a program-controlled operating interface that displays the specific function configuration in a simple and cost efficient manner to control an electric domestic appliance.

10. Regarding claims 19, 35 and 44, Juergen discloses the cooking device includes a plurality of cooking parameter (Figs 3 & 4, Pg 24, Legend, bake, special, roast, grill) and the control element (Fig 1, Items 50 & 60, Pg 8, Pgh 2, operating unit and control device) is configured to preset all of the cooking parameters (Pg 5, Pgh 5, device is set in operation with a pre-set operating program). Kaish and Juergen discloses the claimed invention except for the control element is configured to preset the cooking parameters as a function of the location or selected operating language of the cooking device. In analogous art of control arrangement for a program-controlled domestic appliance with country program list, Wolfgang discloses the control element (Fig 1, Item 1, Pg 2, Pgh 8, control unit) is configured to preset the cooking parameters as a function of the selected operating language of the cooking device (Pg 1, Pgh 4 & Pg 2, Pgh 1) for the benefit of taking into consideration country-specific cooking and food patterns (Pg 2, Pgh 1). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings Kaish and Juergen with the location system of Wolfgang for the benefit of taking into consideration country-specific cooking and food patterns.

11. In analogous art of automatic control of certain functions, Andreas discloses the control element (Fig 1, Item 2) is configured to preset the cooking parameters as a function of the location of the cooking device (Pg 4, Lines 30-40 & Pg 5, Lines 28-36) for the purpose of determining country specific parameters and adjusting the device control functions accordingly (Pg 4, Lines 30-40). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings of Kaish, Juergen and Wolfgang with the automatic control element function of Andreas for the purpose of determining country specific parameters and adjusting the device control functions accordingly.

12. Regarding claim 21, Juergen discloses the predetermined unchangeable limits are preset (Pg 5, Pgh 5, device is set in operation with a pre-set operating program, the user can still adapt or change the program parameters by actuating the function operating elements). Kaish and Juegen discloses the claimed invention except for the limits are preset based on the location of the cooking device. In analogous art of control arrangement for a program-controlled domestic appliance with country program list, Wolfgang discloses the limits are preset based on the location of the cooking device (Pg 1, Pgh 4 & Pg 2, Pgh 1) for the benefit of taking into consideration country-specific cooking and food patterns (Pg 2, Pgh 1). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings Kaish and Juergen with the location system of Wolfgang for the benefit of taking into consideration country-specific cooking and food patterns.

13. Regarding claims 22 and 45, Kaish teaches the input comprises a locating system (Fig 10, Item 107, Col 11, Lines 1-5, GPS) that is configured to automatically detect the location of the cooking device (Fig 1, Item 1, Col 3, Lines 22-35 & Col 6, Lines 31-36, microwave-convection oven).

14. Regarding claims 24 and 46, Kaish, Juergen and Wolfgang discloses the claimed invention except for the control element is configured to preset the cooking parameters as a function of the location detected by the locating system. In analogous art of automatic control of certain functions, Andreas discloses the control element (Fig 1, Item 2, Pg 5, Lines 28-32) is configured to preset the parameters as a function of the location (Pg 4, Lines 30-40 & Pg 5, Lines 28-36) detected by the locating system (Item 6, Pg 5, Lines 1-22) for the purpose of determining country specific parameters and adjusting the device control functions accordingly (Pg 4, Lines 30-40). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings of Kaish, Juergen and Wolfgang with the automatic control element function of Andreas for the purpose of determining country specific parameters and adjusting the device control functions accordingly.

15. Regarding claims 26 and 47, Kaish teaches the geographic location of the cooking device is a country-specific location. The examiner interprets that it is inherent that the geographic location of the cooking device is a country-specific location. If the location of the cooking device is located in the US, then the device is specific to the US. If the location of the cooking device is located in Germany, then the device is specific to the Germany.

16. Regarding claims 27, 36 and 48, Juergen discloses the confirmation or storage function element (Fig 1, Item 50, Pg 9, Pgh 3, memory for storing program parameters) is operable to automatically confirm, accept or store the modified cooking parameter (Pg 5, Pgh 5 & Pg 6, Pgh 1 & Pg 4) after the predetermined time period lapses (Pg 4, Pgh 3 & 4, automatically started after a predetermined time & Pg 7, Pgh 1) for the purpose of providing a program-controlled operating interface that displays the specific function configuration in a simple and cost efficient manner to control an electric domestic appliance (Pg 4, Pghs 1 & 2). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings of Kaish with the regulating unit of Juergen for the purpose of providing a program-controlled operating interface that displays the specific function configuration in a simple and cost efficient manner to control an electric domestic appliance.

17. Regarding claims 28, 37 and 49, Kaish and Juergen discloses the claimed invention except for the environmental cooking condition is at least one of temperature, humidity and time of cooking. In analogous art of control arrangement for a program-controlled domestic appliance with country program list, Wolfgang discloses the environmental cooking condition (Fig 1, Item 1, Pg 1, Pgh 2) is at least one of temperature, humidity and time of cooking (Pg 2, Last Pgh, control data like oven temperature, or the time of cooking of the a special cooking method or program) for the benefit of taking into consideration country-specific cooking and food patterns (Pg 2, Pgh 1). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings Kaish and Juergen with the control arrangement

of Wolfgang for the benefit of taking into consideration country-specific cooking and food patterns.

18. Regarding claims 29, 38 and 50, Kaish teaches the modification function element is at least one of a dial, display and a touch screen (Figs 1 & 10, Items 16 & 106, Col 10, Lines 65-67 & Col 11, Line 1, information display).

19. Regarding claims 34 and 43, Wolfgang discloses the predetermined unchangeable limits are preset based on the selected operating language of the cooking device (Pg 1, Pgh 4 & Pg 2, Pgh 1) for the purpose of taking into consideration country-specific cooking and food patterns (Pg 2, Pgh 1). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings Kaish and Juergen with the control arrangement of Wolfgang for the benefit of taking into consideration country-specific cooking and food patterns.

20. In analogous art of automatic control of certain functions, Andreas discloses the predetermined unchangeable limits are preset based on the location of the device (Pg 4, Lines 30-40 & Pg 5, Lines 28-36) for the purpose of determining country specific parameters and adjusting the device control functions accordingly (Pg 4, Lines 30-40). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings of Kaish, Juergen and Wolfgang with the automatic control element function of Andreas for the purpose of determining country specific parameters and adjusting the device control functions accordingly.

21. Claims 2, 20, 31, 32, 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaish (US 5,997,928), Juergen (DE 19832757), Wolfgang (DE

19830844) and Andreas (DE 19802594) as applied to claim 1, in view of Belt (US Patent 6,193,422).

22. Regarding claims 2, 31 and 40, Kaish, Juergen, Wolfgang and Andreas discloses the claimed invention except for the control element is further configured to adjust the predetermine time period. In analogous art of implementation of idle mode in a suspend/resume microprocessor system, Belt discloses the control element (Fig 1, Item 11, Col 3, Lines 2-14) is further configured to adjust the predetermine time period (Col 3, Lines 9-14 & Col 5, Lines 10-20) for the benefit of operating the system with certain power savings factors (Col 5, Lines 30-35). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings of Kaish, Juergen, Wolfgang and Andreas with the adjustable delay of Belt for the benefit of operating the system with certain power savings factors. Examiner interprets that because the idle time of Belt can be set to 8 seconds, the timer can also be adjusted to a different time value.

23. Regarding claims 20, 32 and 41, Juergen discloses a predetermined time period (Pg 4, Pgh 3 & 4, automatically started after a predetermined time). Kaish, Juegen, Wolfgang and Andreas discloses the claimed invention except for the predetermined time period is approximately one second to approximately thirty seconds after the last activation of the control element. In analogous art of implementation of idle mode in a suspend/resume microprocessor system, Belt discloses the predetermined time period is approximately one second to approximately thirty seconds after the last activation of the control element (Col 5, Lines 10-20, preset for idle timer is 8 seconds) for the benefit

of operating the system with certain power savings factors (Col 5, Lines 30-35). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings of Kaish, Juergen, Wolfgang and Andreas with the delay of Belt for the benefit of operating the system with certain power savings factors.

Response to Amendment

24. Claims 3, 5-18, 23 and 25 are cancelled.

25. Claims 31-50 are new.

26. Claims 1, 2, 19, 21 and 27 have been amended.

27. Claims 1, 2, 4, 19-22, 24 and 26-50 are pending.

Response to Arguments

28. Applicant's arguments filed 11/30/2011 have been fully considered but they are not persuasive.

29. Regarding the Remarks on pages 12-13 about claims 1, 4, 19, 21, 22, 24 and 26-29 and "Kaish not relevant to the subject matter of claims 1, 30 and 39 and the limitations of the - control element configured to receive information via the input and to automatically preset the cooking parameter as a function of the geographic location of the cooking device; automatically preset the cooking parameter as a function of the selected operating language of the cooking device and automatically preset the cooking parameter as a function of the geographic location and operating language of the cooking device", the examiner respectfully disagrees.

30. Claim 1, 30 and 39 recite "configured to .." which the examiner considers as functional or intended use language. The claims are directed to a cooking device, and because Kaish teaches a cooking device that meets all the structural limitations of the claim and has a controller that is capable of performing the recited function, it meets all the limitations of the claim. Juergen, Wolfgang and Andreas were added to show that a controller performing the recited function was known in the art. It would have been obvious for one having ordinary skill in the art at the time of the invention to combine the cooking device of Kaish with the controller function of Juergen, Wolfgang and Andreas for the purpose of forming a control arrangement with certain power savings factors for the purpose of taking into consideration country-specific cooking and food patterns based on geographic location and operating language.

31. While intended use recitations and other types of functional language cannot be entirely disregarded. However, in apparatus, article, and composition claims, intended use must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. In re Casey, 370 F.2d 576, 152 USPQ 235 (CCPA 1967); In re Otto, 312 F.2d 937, 938, 136 USPQ 458, 459 (CCPA 1963).

32. Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than function. In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). See also MPEP § 2114.

33. The manner of operating the device does not differentiate an apparatus claim from the prior art. A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

34. Regarding the Remarks on page 13 about claims 1, 30 and 39 about "Juergen not disclosing a cooking parameter reflecting at least one of geographic location and a selectable operating language", the examiner respectfully disagrees. Juergen discloses a cooking parameter reflecting a selectable operating language (Pg 2, Pgh 2, therefore country-specific cook and food patterns can be taken into consideration, for each national language and therefore each country) for the purpose of providing a program-controlled operating interface that displays the specific function configuration in a simple and cost efficient manner to control an electric domestic appliance (Pg 4, Pghs 1 & 2).

35. Regarding the Remarks on pages 13-14 about claims 1, 30 and 39 about "Wolfgang not disclosing the parameter be changeable by an operator in connection with a security feature", the examiner respectfully disagrees. See rejection of claims 1, 30 and 39 above for why Wolfgang discloses the claim limitations related to the security feature.

Conclusion

36. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

37. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

38. Any inquiry concerning this communication or earlier communications from the examiner should be directed to THIEN TRAN whose telephone number is (571)270-7745. The examiner can normally be reached on Mon-Thurs, 8-5PM EST.

39. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

40. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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